

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
GLOBAL PLUS 3 CONTRACTS (MC2016-152)
NEGOTIATED SERVICES AGREEMENTS

Docket No.
CP2017-249

**NOTICE OF THE UNITED STATES POSTAL SERVICE OF FILING A
LIBRARY REFERENCE**
(January 14, 2020)

The Postal Service hereby gives notice of filing the following library reference
under seal in this proceeding:

USPS-LR-CP2017-249/NP2 Settlement Reference Files

The workbooks filed with this notice concern Settlement Charges related to a
number of modifications to Global Plus 1D, 3, 4, 5, and 6 contracts that the Postal
Service intends to file in the near future. The workpapers include a preface that
explains the contents in detail. More specifically, the preface provides an overview of
the contents, a discussion of models, and an explanation of the settlement charges.
With respect to the library reference filed under seal, the Postal Service hereby includes
an Application for Non-Public Treatment as Attachment 1.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Anthony F. Alverno

Chief Counsel

Global Business and Service Development
Corporate and Postal Business Law Section

Christopher C. Meyerson

Attorney

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-7820; Fax -5628
christopher.c.meyerson@usps.gov
January 14, 2020

APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. Part 3007, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal as a library reference with the Commission in this docket (library reference). The library reference concerns certain settlement charges related to a number of modifications to Global Plus 1D, 3, 4, 5, and 6 contracts that the Postal Service intends to file in the near future.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.201(b) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials.

Information of a commercial nature, which under good business practice would not be publicly disclosed, as well as third party business information, is not required to be disclosed to the public. 39 U.S.C. § 410(c)(2); 5 U.S.C. § 552(b)(4). The Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A).¹ Because the portions of materials filed non-publicly in this docket fall within the scope of information not required to be publicly disclosed, the Postal Service

¹ The Commission has indicated that “likely commercial injury” should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

asks the Commission to support its determination that these materials are exempt from public disclosure and grant its application for their non-public treatment.

(2) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.²

Concerning the library reference, the Postal Service believes that persons other than the Postal Service with a proprietary interest in the materials would be foreign postal operators.

The Postal Service provided notice to all foreign postal operators within the Universal Postal Union network through an International Bureau Circular issued on December 9, 2019, that the Postal Service will be regularly submitting certain business information to the Commission. Some UPU-designated foreign postal operators may have a proprietary interest in such information. The circular includes information on how third parties may address any confidentiality concerns with the Commission. In addition, contact information for all UPU Designated Operators is available at the

² Section 3007.201(b) further states the following:

(i) If the submitter has a proprietary interest in the information contained within the materials, identification of an individual designated by the submitter to accept actual notice of a motion related to the non-public materials or notice of the pendency of a subpoena or order requiring production of the materials.

(ii) If any person other than the submitter has a proprietary interest in the information contained within the materials, identification of each person who is known to have a proprietary interest in the information. If such an identification is sensitive or impracticable, an explanation shall be provided along with the identification of an individual designated by the submitter to provide notice to each affected person.

(iii) If both the submitter and any person other than the submitter have a proprietary interest in the information contained within the non-public materials, identification in accordance with both paragraphs (b)(2)(i) and (ii) of this section shall be provided. The submitter may designate the same individual to fulfill the requirements of paragraphs (b)(2)(i) and (ii) of this section.

following link, which is incorporated by reference into the instant application:

http://pls.upu.int/pls/ap/addr_public.display_addr?p_language=AN.³

(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.

The Postal Service maintains that the library reference filed under seal in this docket should remain confidential.

The library reference includes information about certain settlement charges that the Postal Service pays its foreign postal counterparts.

(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.

If the library reference were to be disclosed publicly, the Postal Service considers that it is quite likely that the Postal Service would suffer commercial harm. All of the information in the library reference is highly confidential in the business world. If this information were made public, the Postal Service's competitors could use the information to their advantage. Because these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

Information in the library reference consists of sensitive commercial information related to settlement charges and agreements between the Postal Service and foreign postal operators. Such information would be extremely valuable to competitors of both the Postal Service and third parties. Using detailed information about such settlement

³ To the extent required, the Postal Service seeks a waiver from having to provide each foreign postal operator notice of this docket. It is impractical to communicate with dozens of operators in multiple languages about this matter. Moreover, the volume of contracts would overwhelm both the Postal Service and the applicable foreign postal operators with boilerplate notices.

charges and agreements, competitors would be able to better understand the Postal Service's underlying costs, and identify areas where they could adapt their own operations to be more competitive. In addition, competitors could use such information to their advantage in negotiating the terms of their own agreements with the Postal Service. Also, competitors of foreign postal operators could use the information in the financial spreadsheets to understand foreign postal operators' nonpublished pricing to better compete against them.

(5) At least one specific hypothetical, illustrative example of each alleged harm.

Identified harm: Public disclosure of information in the library reference would be used by the competitors of the foreign postal operators to the detriment of foreign postal operators.

Hypothetical: A firm competing with foreign postal operators obtains a copy of the library reference. The firm uses the information to assess foreign postal operators' revenue sources and growth opportunities, and thereby develop benchmarks for competitive alternatives. In addition, disclosure of such information could provide leverage to other parties in their negotiations with foreign postal operators concerning financial arrangements that they may make with the foreign postal operators in the future.

Identified harm: Public disclosure of sensitive Postal Service business information in the library reference would be used by competitors and customers to the detriment of the Postal Service and foreign postal operators.

Hypothetical: A competing delivery service obtains a copy of the library reference. The competing delivery service analyzes the workpapers to determine settlement charges that the Postal Service is paying foreign postal operators. The competing delivery service then sets lower rates for its products that are similar to what the Postal Service

offers its Global Plus 3 customers, taking into consideration the information in the library reference. The competing delivery service markets its ability to guarantee to beat the Postal Service on price for international delivery services. By sustaining this strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service and associated foreign postal operators out of the business-to-business and business-to-customer delivery services markets for which the Global Plus 3 product is designed.

(6) The extent of the protection from public disclosure alleged to be necessary.

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant delivery services markets, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products should not be provided access to the non-public materials. This includes all competitors of the relevant customer, whether or not they are currently actual Postal Service customers.

(7) The length of time for which non-public treatment is alleged to be necessary with justification thereof.

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless otherwise provided by the Commission. 39 C.F.R. § 3007.401(a). However, because the Postal Service's relationships with customers often continue beyond ten years, the Postal Service intends to oppose requests for disclosure of these materials pursuant to 39 C.F.R. § 3007.401(b-c).

(8) Any other relevant factors or reasons to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.